

Chapter 7

Decentralization

7.1 Historical Context

7.1.1 Prior to 1951

History of local governance dates back to the Kirat dynasty (around 3000 years ago) in Nepal. After the Kirat dynasty, during the Lichhavi period (3rd century AD), the *Panchali* system of local governance was regarded as a supreme system and was practised. After the integration of modern Nepal in 1768, during the reign of King Prithvinarayan Shah, *panchayat(s)* (local governing bodies) were formed at various levels. *Panchayat(s)* were regarded as useful for judicious as well as developmental work at the grass roots' level. In 1919, municipalities were established in urban areas and in 1926, the establishment of assemblies of wise persons at village level (*kachahari*) took place, which was progress towards autonomy. The Village *Panchayat* Act of 1948 and Village Development Act of 1950 can also be perceived as steps towards paving the way for local government.

7.1.2 Post-1951 Period

A multiparty parliamentary democracy was

introduced in Nepal in 1951. Prior to it, for 104 years there was an oligarchic Rana regime that was a highly centralized system of governance. Local entities were simply involved in maintaining law and order, and collecting taxes.

A partyless *Panchayat* system was introduced in 1962 by King Mahendra. Decentralization appeared in the preamble of the *Panchayat* constitution as the basis of *Panchayat* administration. The following is a chronology of steps towards decentralization during the *Panchayat* period.

Formulation of high-level administrative power decentralization commission, 1963

In little more than a year, the commission submitted a report to the government that suggested decentralization of powers to enable the village *panchayat* to act as the village cabinet, the village assembly as the legislative body, the district assembly as a legislative body, the district *panchayat* as the district cabinet and the executive members of the village, town and district to hold the portfolios of agriculture, health, education, irrigation, forest, and so on.

Besides these responsibilities, the commission also suggested the government give rights to the village and district *panchayats* for maintaining law and order and exerting limited judicial powers.

Decentralization Plan, 1965

This plan was prepared to implement the commission's (1963) report in three phases within 12 years. In the first phase it was suggested that Nepal would be organized into 75 districts with a Chief District Officer (CDO) as the administrative and development head of each district. Nepal would be divided into 14 zones with 12 zonal commissioners. These commissioners would be mainly responsible for maintaining law and order within the zone. In the second phase, the task was to prepare trained manpower for planning and implementation. The final phase was aimed at devolving all responsibilities of local and district development of local *panchayat(s)*. A separate decentralization unit at the centre was envisaged to implement and monitor the plan.

Local Administration Act 1965

HMGN through the promulgation of the Local Administration Act Ordinance 1965 established 75 districts and 14 zones. The CDOs and Zonal Commission were appointed and the decentralization plan was introduced.

Decentralization Committee, 1967

The HMGN formed a 21-member decentralization committee in September 1967 to review and make suggestions to the government on matters related to delegation of power to district *panchayat(s)*, the capacity of district and village *panchayat(s)*, the relationship between the CDO and the district *panchayat*, and the provision of authority to maintain law and order in the district. This committee

suggested greater power to the CDOs— including exercise of power related to maintaining law and order.

Administrative Reform Commission, 1968

The commission in its three consecutive reports suggested to the government that a *Panchayat* Development Officer (PDO) should be the secretary of the district *panchayat* office not the CDO, and the task of the CDO should be limited to maintaining law and order. It also suggested that all policy and supervision matters should be within the central government and all development-related works at the district level should be implemented with the assistance of a district committee chaired by the District Panchayat Chairman and member of the National Panchayat and one of its members. The PDO would serve as the District *Panchayat* Secretary.

Decentralization Committee, 1969

HMGN formed a 15-person decentralization committee to submit practical suggestions for the successful implementation of decentralization plan of 1965. It suggested that Zonal Commissioners be the chief administrators of the zone; the district assembly be made a legislative body of the district and the CDO made secretary of the district assembly giving all executive power to the district *panchayat*. The need for giving all district-related powers to the district *panchayat* and assembly and making the CDO entirely responsible for programme implementation was also suggested.

Local Administration Ordinance 1971

This ordinance relieved the CDOs from all development tasks as the secretary of the district *panchayat*, which became the responsibility of the Local Development Officer (LDO). The CDO was entrusted with the task of maintaining law and order.

District Administration Plan, 1974

This plan initiated an integrated district administration plan. All district-level offices were put under the CDO and the district *panchayat(s)* were given the right to take decisions within the policies, rules, and guidelines made by HMGN. This plan also made provision for local multipurpose development workers and a village *panchayat* secretary.

Administrative Reforms' Commission, 1975

This commission was formed in 1975. It made various suggestions for the 'true' implementation of decentralization. It also suggested effective enforcement of the decentralization plan.

Integrated Panchayat Development, 1979

This outline was introduced when the district administration plan of 1974 was declared a failure. The means and resources required for an integrated development plan were to be provided by the centre. This also had a provision of a coordination committee chaired by the Prime Minister, a committee under the Panchayat minister and other coordination committees at district regional, zonal district, and service central levels.

Working Paper on Local Development Ministry, 1980

After the establishment of the Local Development Ministry, a working paper was prepared that recommended the formation of user committees to formulate and implement local development plans. The LDO acted as the secretary of the district *panchayat* and also coordinated all district-level development plans

Decentralization Subcommittee, 1981

This was formed as a follow-up to the 1979 referendum, which went in favour of the

Panchayat system. The purpose was to adopt decentralization as an important principle of the *Panchayat* system. This committee also identified the following main reasons for the failures of the decentralization plan during 20 years of *Panchayat* rules.

- Lack of uniform perspective of view on decentralization
- Lack of implementation
- Lack of regularity in decentralization efforts
- Lack of a perspective of decentralization as a strategy of national development
- Limit of decentralization only to the executive boundary

The committee suggested a procedure for bottom-up planning, and a review and modification of all existing laws conflicting with the Decentralization Act.

High-level Decentralization Subcommittee, 1982

HMGN formed a nine-member, high-level decentralization subcommittee in 1982 under the chairmanship of the *Panchayat* Policy and Investigation Committee. It made rules and regulations to implement a decentralization plan. Amendments to the Decentralization Act were proposed, and again the Decentralization Act and rules and regulations were enforced.

7.2 Contemporary Policy on Decentralization

7.2.1 Constitution of Nepal 1991

The people's movement of 1990 overthrew the 30-year *Panchayat* system in Nepal and restored parliamentary democracy. The Constitution of Nepal 1991 embodied the principle that the main responsibility of the state is to establish a condition in which the people have the opportunity to be involved to the maximum level in various

stages of administration through the process of decentralization, thereby strengthening multiparty democracy.

7.2.2 Administrative Reforms' Commission, 1992

A high-level administrative reforms' commission was formed in line with directives of the Constitution of Nepal 1991 was formed in order to take necessary measures to make administration more responsive to people's aspirations. The commission recommended devolution of various sectional powers to local authorities such as village, town, and district development committees.

7.2.3 Local Authorities' Acts 1992

The Village Development Act, Municipality Act, and District Development Committee Act were made separately in order to expedite local development through maximum participation of people at the grass roots' level in the task of self-governance and development work and development of local leadership for institutional development of multiparty democracy. However, progress was not seen as satisfactory.

7.2.4 Eighth and Ninth Five-Year Plans (1992-1997; 1998-2003)

Both of these plans mentioned decentralization as the main vehicle for the development of democracy in Nepal. They also ensure appropriate training for local people in skills that enable them to run their affairs by themselves.

7.2.5 Decentralization Action Plan, 1995

HMGN selected 250 VDCs in the first phase for the implementation of this plan. This plan

decentralizes power to the village. Sectors such as education, health, agriculture, irrigation, and drinking water were included in this phase. VDCs were authorised to formulate, execute, and monitor projects. The government provided funds. VDCs were given the power of administrative and financial control over the programmes. There was provision for the involvement of people's representatives in the evaluation of work performance of the staff deputed for the implementation of the programme.

7.3 Issues

The Decentralization Working Committee of the high-level Decentralization Coordination Committee recently identified four major drawbacks to the implementation of decentralization in the past. They are as follow.

7.3.1 Decentralization was not Integrated with Political Norms

Decentralization was used as a manipulating tool for mobilising people's participation for development work intended to be undertaken by the state.

7.3.2 Lack of Political Commitment

Each committee/commission held different views regarding decentralization. Decentralization was confined to the local executive as an administrative exercise. Consequently, as recommendations were considered not timely by the administration, they were simply confined to paper.

7.3.3 Lack of Continuity

There were frequent changes in the structure of local organizations and rights of the local authorities. Reports and plans were never fully implemented; instead, a new programme was introduced each time.

7.3.4 Inadequate Planning Support to Make Local Authorities Efficient and Capable

Sectoral programmes often ran parallel to VDC-initiated programmes creating confusion. No assessments were made and inadequate assistance was provided to the local organization in terms of financial and manpower support.

7.4 Evolution of the Local Autonomy Act 1998

Bearing in mind the above-mentioned constraints on institutionalising decentralization in the formation of democracy, a high-level decentralization coordination committee was formed by the Government in May 1996. The Government also formed a Decentralization Working Committee as a Coordination Committee in order to review and suggest implementable processes for institutionalisation of decentralization. The working committee submitted a *Report on Decentralization and Local Government 1996* in December 1996.

As recommended, the Local Autonomy Act 1997 was sent to the Development Committee for detailed discussion. Records show that there were over 113 hours of discussion. After making some additional suggestions, the bill was forwarded to the Upper House, which endorsed it and sent it to the Lower House for final approval. Discussions were held again in the Lower House, which was not customary. During these deliberations, parliamentarians were physically abusive and furniture was destroyed. This was the first incidence of its kind and a few parliamentarians were injured. Ultimately, the house passed the bill with a two-thirds majority. Opposition parties disagreed with the process adopted by the chairman so they registered a motion for his impeachment. Simultaneously, a similar motion was registered against the

vice-chairman by the ruling partner. The vice-chairman resigned before voting, while the chairman survived. The bill is still awaiting final endorsement from His Majesty.

In the Local Autonomy Act 1998, there are particular articles on decentralization of power of natural resource management. These articles are related to agriculture, forestry, land tax and land use. Local bodies are empowered to exercise their right of planning, implementing, and evaluating the use of natural resources.

7.5 Other Efforts

7.5.1 Panchayat Development and Land Tax, 1965

The basic tenets of the *Panchayat* system were the creation of a society free from exploitation and the maximum mobilisation of human and financial resources at the local level. The aim was to meet these objectives by greater decentralization of both administrative power and institutions, and also by making local political and economic institutions viable instruments for carrying out local development objectives.

The Land Reform Act of 1964 was one such measure for improved agricultural production and greater equity. Associated with this act was the enactment of the *Panchayat Development and Land Tax (PDLT) Act 1965* whose intention was not only to be an effective measure for rural resource mobilisation especially from the agricultural sector, but also was the instrument to make local (village and district) *panchayat(s)* strong and viable. It was perceived as a reasonable scheme for greater resource mobilisation for local development. However, the PDLT did not achieve tax collection at a desirable level as it was difficult for local people to enforce tax collection in their own village; there was

income disparity as Nepal is geographically and resourcewise diverse with unequal resource endowments; there was a lack of trained manpower; and there were many opportunities for misappropriation of funds. There were incidences of the village *panchayat* chairman ignoring the district *panchayat* and national *panchayat* authorities. Ultimately, the programme was abandoned.

7.5.2 Participatory District Development Programme (PDDP), 1995

With a view to establishing and further augmenting the process and institutional base of an effective decentralized system of local-level planning and monitoring, the Decentralization Support Programme (DSP) was implemented during 1992-1995 with assistance from the United Nations Development Programme (UNDP). The DSP involved key government agencies at the central level and a number of districts. Encouraged by the results of the DSP, the Participatory District Development Programme (PDDP) is currently being implemented in 20 districts as a follow-up to DSP. Besides the PDDP, there is also a Local Governance Programme (LGP) in 12 districts. This totals 32 districts of Nepal where local-level agencies (VDCs, DDCs) are being assisted and trained for sustainable autonomy.

A recent study by UNDP, however, mentions that legal provisions used by local government were not being honoured by central government organizations. Moreover, confusion existed in the way devolution of power to local bodies is understood and interpreted by different stakeholders.

7.6 Impact and Evidence

In the past, the rulers consulted the rural elite. These rural elite, who were often

disguised as the representatives of the people, in fact worked for the ruling class and thus perpetuated class exploitation. During the *Panchayat* regime, devolution of centrally controlled power to grass roots' organizations often remained on paper. Local institutions created by the state were simply mechanisms for controlling and monitoring the people, not for empowering them in a real sense. Decentralization, therefore, was not an outcome of bottom-up demand but rather a recipe given by the centre.

Nepal's first democracy crumbled in 1960 and the contemporary society was blamed for its nonpreparedness to practice democracy. The PDLT was abandoned prematurely when local bodies began institutionalising their power and was later seen as a threat by district- and central-level organization leaders. Partial devolution of power to local bodies indicated that, with such empowerment, higher level organizations were neglected, and conflicts among different hierarchies arose with regards to resource use (land use, land revenue, and land tax). There was competition for the exploitation of natural resources rather than their conservation.

However, each report/plan on decentralization has given rise to another plan and, ultimately, the Local Autonomy Act 1998 has been passed by parliament. Certainly the rights of local bodies have been protected by the act, but doubts about the people's wisdom still persist as the act still makes the government the final assessor. The government's sincere commitment to empowering local entities is still questionable.

Decentralization, when viewed as a means for reversing the centralized governance of the past and reinforcing the devolution of power to local political units for self-governance and self-reliant development, has mixed results. Dahal (1996) rightly says

that decentralization efforts pursued so far in Nepal—whether as a mix of restrained deconcentration and delegation under the *Panchayat* system, or as vigorous efforts towards delegation at present—are ‘essentially experiments to legitimise the policies of survival regimes, be they the development practices undertaken internally or a response to the imperatives of changing global needs and demands’.

As resource constraints are obstacles to sustainable development, attempts were made to support local entities in the past. Rights to resource mobilisation in terms of various kinds of tax collection and freedom to invest were given to local bodies; more recently, the state has supported VDCs with Rs 500,000 each (under the ‘Build Your

Own Village’ and ‘self-reliance’ banners). However, the practice of dividing this money equally among wards is widely practised. This creates the problem of treating all VDCs and DDCs in a similar manner regardless of their resources. The Local Autonomy Act too intends to empower local entities with blanket recommendations in spite of the fact that there are great variations among VDCs and DDCs of diverse agro-ecological zones and ethnic/caste diversity.

The bill (Local Autonomy Act, 1998) seeks to revise the existing legal framework in tune with government’s avowed commitment to fully fledged and unconditional decentralization and devolution of authority to local bodies. However, the outcome is still uncertain.